

SECOND REGULAR SESSION

# SENATE BILL NO. 615

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOFFER.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3305S.02I

## AN ACT

To repeal sections 578.405, 578.407, and 578.409, RSMo, and to enact in lieu thereof three new sections relating to agricultural research and production facilities, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 578.405, 578.407, and 578.409, RSMo, are repealed

2 and three new sections enacted in lieu thereof, to be known as sections 578.405,  
3 578.407, and 578.409, to read as follows:

578.405. 1. Sections 578.405 to 578.412 shall be known and may be cited  
2 as "The [Animal] Agricultural Research and Production Facilities Protection  
3 Act".

4 2. As used in sections 578.405 to 578.412, the following terms mean:

5 (1) "Agricultural production", the assembly of items used for  
6 testing or research in the context of product development in  
7 conjunction or coordination with an agricultural research and  
8 production facility. The agricultural production may be performed for  
9 personal, commercial, pharmaceutical, or educational purposes; these  
10 may include but shall not be limited to:

11 (a) Field crops or field crop products;

12 (b) Timber or timber products;

13 (c) Forestry products;

14 (d) Products derived from livestock or other farm animals,  
15 including but not limited to meat, dairy, poultry, and milk products;

16 (e) Equine animals;

17 (f) Wool;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

- 18           **(g) Fruit or vegetable products;**  
19           **(h) Aquacultural products;**  
20           **(i) Horticultural products, including but not limited to plant**  
21 **materials grown in a greenhouse, nursery stock grown inside or outside**  
22 **of a container, ornamental grass, turf grass, ornamental trees,**  
23 **ornamental shrubs, or flowers;**  
24           **(j) Sod;**  
25           **(k) Mushrooms;**  
26           **(l) Viticultural products or those products derived from the**  
27 **cultivation of grapes;**  
28           **(m) Apicultural products or those products derived from the**  
29 **raising and caring for bees; and**  
30           **(n) Tobacco;**  
31           **(2) "Agricultural research and production facility", any facility,**  
32 **including but not limited to private research facilities, a university, or**  
33 **any federal, state, or local government agency engaging in legal**  
34 **scientific research or agricultural production. Such facility may**  
35 **include but not be limited to those facilities involving the use of**  
36 **animals, including any organization with a primary purpose of**  
37 **representing livestock production or processing, any organization with**  
38 **a primary purpose of promoting or marketing livestock or livestock**  
39 **products, any licensed veterinary practice, any organization involved**  
40 **in the production of pet food or pet food research, and any organization**  
41 **with a primary purpose of representing any such practice,**  
42 **organization, or institution. The term shall include the owner,**  
43 **operator, and employees of any facility and the offices, vehicles, and**  
44 **equipment of any such persons while engaged in duties related to the**  
45 **facility, as well as any premises or property where the agricultural**  
46 **production or animals are located;**  
47           **(3) "Animal", every living creature, domestic or wild, but not including**  
48 **Homo sapiens;**  
49           **(4) "Material support", any type of financial support or payment,**  
50 **lodging and housing, training, false documentation or identification,**  
51 **and any type of communications equipment, weapons, lethal**  
52 **substances, personnel, and transportation, the only exceptions being**  
53 **medicine and religious materials;**  
54           **[(2) "Animal facility", any facility engaging in legal scientific research or**

55 agricultural production or involving the use of animals, including any  
56 organization with a primary purpose of representing livestock production or  
57 processing, any organization with a primary purpose of promoting or marketing  
58 livestock or livestock products, any person licensed to practice veterinary  
59 medicine, any organization involved in the production of pet food or pet food  
60 research, and any organization with a primary purpose of representing any such  
61 person, organization, or institution. The term shall include the owner, operator,  
62 and employees of any animal facility and the offices and vehicles of any such  
63 persons while engaged in duties related to the animal facility, and any premises  
64 where animals are located;

65 (3)] (5) "Director", the director of the department of agriculture.

578.407. 1. No person shall **commit, attempt to commit, conspire to**  
2 **commit, or knowingly allow another person to commit, any of the**  
3 **following offenses:**

4 (1) Release, steal, or otherwise intentionally cause the death, injury, or  
5 loss of any animal at or from an [animal] **agricultural research and**  
6 **production** facility and not authorized by that facility;

7 (2) Damage, vandalize, or steal any property in or on an [animal]  
8 **agricultural research and production** facility;

9 (3) Obtain access to an [animal] **agricultural research and**  
10 **production** facility by false pretenses for the purpose of performing acts not  
11 authorized by the facility;

12 (4) Enter or otherwise interfere with an [animal] **agricultural** research  
13 and production facility with the intent to destroy, alter, duplicate or obtain  
14 unauthorized possession of records, data, material, equipment, or animals;

15 (5) Knowingly obtain, by theft or deception, control over records, data,  
16 material, equipment, or animals of any [animal] **agricultural research and**  
17 **production** facility for the purpose of depriving the rightful owner or  
18 [animal] **agricultural research and production** facility of the records,  
19 material, data, equipment, or animals, or for the purpose of concealing,  
20 abandoning, or destroying such records, material, data, equipment, or animals;

21 (6) **The crime of arson in the first degree, as defined in section**  
22 **569.040, RSMo, or arson in the second degree, as defined in section**  
23 **569.050, RSMo, which results in damage to an agricultural research and**  
24 **production facility;**

25 (7) **Knowingly and unlawfully enters an agricultural research**

26 **and production facility; and**

27 **(8) Enter or remain on an [animal] agricultural research and**  
28 **production facility with the intent to commit an act prohibited by this section.**

29 **(9) Knowingly distributes records, data, material, equipment, or**  
30 **animals from any agricultural research and production facility or any**  
31 **photographic, video, or electronic image of such objects or the facility;**

32 **(10) Knowingly possesses records, data, material, equipment, or**  
33 **animals from any agricultural research and production facility or any**  
34 **photographic, video, or electronic image of such objects or the facility;**

35 **2. No person shall knowingly raise, solicit, collect, donate, or**  
36 **provide any material support to help, in whole or in part, plan,**  
37 **prepare, carry out, or conceal any offense committed in violation of this**  
38 **section. Such person shall be subject to penalties described in**  
39 **subdivisions (1) to (8) of section 578.409.**

578.409. 1. Any person who violates **subdivisions (1) to (8) of section**  
2 **578.407:**

3 **(1) Shall be guilty of a misdemeanor for each such violation unless the**  
4 **loss, theft, or damage to the [animal] agricultural research and production**  
5 **facility exceeds three hundred dollars in value;**

6 **(2) Shall be guilty of a class D felony if the loss, theft, or damage to the**  
7 **[animal] agricultural research and production facility property exceeds**  
8 **three hundred dollars in value but does not exceed ten thousand dollars in value;**

9 **(3) Shall be guilty of a class C felony if the loss, theft, or damage to the**  
10 **[animal] agricultural research and production facility property exceeds ten**  
11 **thousand dollars in value but does not exceed one hundred thousand dollars in**  
12 **value;**

13 **(4) Shall be guilty of a class B felony if the loss, theft, or damage to the**  
14 **[animal] agricultural research and production facility exceeds one hundred**  
15 **thousand dollars in value, unless the person also violates subsection 2 of this**  
16 **section.**

17 **2. Any person who violates subdivision (9) or (10) of section**  
18 **578.407 shall be guilty of a class B misdemeanor for the first**  
19 **offense. For the second and any subsequent offenses, such person shall**  
20 **be guilty of a class A misdemeanor.**

21 **3. Any person who intentionally agrees with another person to violate**  
22 **section 578.407 and commits an act in furtherance of such violation shall be**

23 guilty of the same class of violation as provided in subsection 1 of this section.

24       [3.] 4. In the determination of the value of the loss, theft, or damage to  
25 an [animal] **agricultural research and production** facility, the court shall  
26 conduct a hearing to determine the reasonable cost of replacement of materials,  
27 data, equipment, animals, and records that were damaged, destroyed, lost, or  
28 cannot be returned, as well as the reasonable cost of lost production funds and  
29 repeating experimentation that may have been disrupted or invalidated as a  
30 result of the violation of section 578.407.

31       [4.] 5. Any persons found guilty of a violation of section 578.407 shall be  
32 ordered by the court to make restitution, jointly and severally, to the owner,  
33 operator, or both, of the [animal] **agricultural research and production**  
34 facility, in the full amount of the reasonable cost as determined under subsection  
35 3 of this section.

36       [5.] 6. Any person who has been damaged by a violation of section  
37 578.407 may recover all actual and consequential damages, punitive damages,  
38 and court costs, including reasonable attorneys' fees, from the person causing  
39 such damage.

40       [6.] 7. Nothing in sections 578.405 to 578.412 shall preclude any  
41 [animal] **agricultural research and production** facility injured in its  
42 business or property by a violation of section 578.407 from seeking appropriate  
43 relief under any other provision of law or remedy including the issuance of an  
44 injunction against any person who violates section 578.407. The owner or  
45 operator of the [animal] **agricultural research and production** facility may  
46 petition the court to permanently enjoin such persons from violating sections  
47 578.405 to 578.412 and the court shall provide such relief.

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